

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

TROY LEE BOONE,

Petitioner,

v.

BILLY TOMPKINS, Warden,

Respondent.

1:05-CV-157 (WLS)

ORDER

Before the Court is a Recommendation from United States Magistrate Judge Richard L. Hodge (Doc. #64), filed December 23, 2008. It is recommended that Petitioner's petition for federal habeas relief be denied. Petitioner has filed a written objection.¹

Petitioner essentially reiterates his prior arguments and emphasizes that one of his counsel withdrew without written notice and/or permission and that a second lawyer failed to make a written entry of appearance. Petitioner also argues that his second lawyer only met with him a short time before his probation revocation hearing. Petitioner further notes "that he did indeed assert that his sentence was void pursuant to O.C.G.A. § 17-9-4." (Defendant's Objection, P. 4). Petitioner also appears to argue that he was discriminated against since he was denied assistance of counsel on appeal. However, as clearly set out by the magistrate judge, Petitioner's petition is reviewed in

¹Petitioner improperly and without permission attached to his objection what is captioned "Amendment to Certificate of Probable Cause", apparently a pleading previously submitted to the Supreme Court of Georgia. Since this document was not presented to the magistrate judge, the Court declines to consider it. Williams v. McNeil, —F.3d —, 2009 WL 311298, *4 (11th Cir. 2009) (holding that a district court has discretion to decline to consider a party's argument when that argument was not first presented to the magistrate judge).

this court pursuant to the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA). The Court finds that Petitioner's objection does not require a different outcome and is **OVERRULED**.

The State habeas court made definitive findings and conclusions of law with respect to Petitioner's claims. This Court upon review agrees with the magistrate judge in finding that, ". . .petitioner has failed to meet his burden to show that the state habeas court's conclusions were contrary to law or an unreasonable application of the correct law."

Therefore, upon full review and consideration of the record, the Court finds that said Report and Recommendation should be, and hereby is, made the order of this Court for reason of the findings made and reasons stated therein together with the findings made and conclusions reached herein. Accordingly, Petitioner's petition for federal habeas relief is **DENIED**.

SO ORDERED, this 31st day of March, 2009.

/s/ W. Louis Sands
W. LOUIS SANDS, JUDGE
UNITED STATES DISTRICT COURT